




City of Huntington Beach Planning and Building Department

STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning and Building
BY: Ethan Edwards, AICP, Associate Planner 
DATE: March 26, 2013

SUBJECT: SIX-MONTH REVIEW OF CONDITIONAL USE PERMIT NO. 11-001 (TAP HOUSE RESTAURANT)

**APPLICANT/
BUSINESS**

OWNER: Dwight Chornomud, 8901 Warner Avenue, Huntington Beach, CA 92647

PROPERTY

OWNER: Huntington Partners, LLC, c/o Kathy Buchoz, 8907 Warner Avenue, Huntington Beach, CA 92647

LOCATION: 8901 Warner Avenue, 92647 (northwest corner at Magnolia Street – Bridgecreek Plaza)

STATEMENT OF ISSUE:

This item represents a six month review for compliance with conditions of approval of Conditional Use Permit No. 11-001. CUP No. 11-001 permitted the establishment, maintenance, and operation of the Tap House Restaurant, an approximately 9,186 sq. ft. restaurant and 1,082 sq. ft. outdoor dining area with alcohol sales; live entertainment consisting of music and dancing; approximately 564 sq. ft. outdoor storage area; and a reduction in the number of required parking spaces based on a parking survey and shared parking analysis.

RECOMMENDATION:

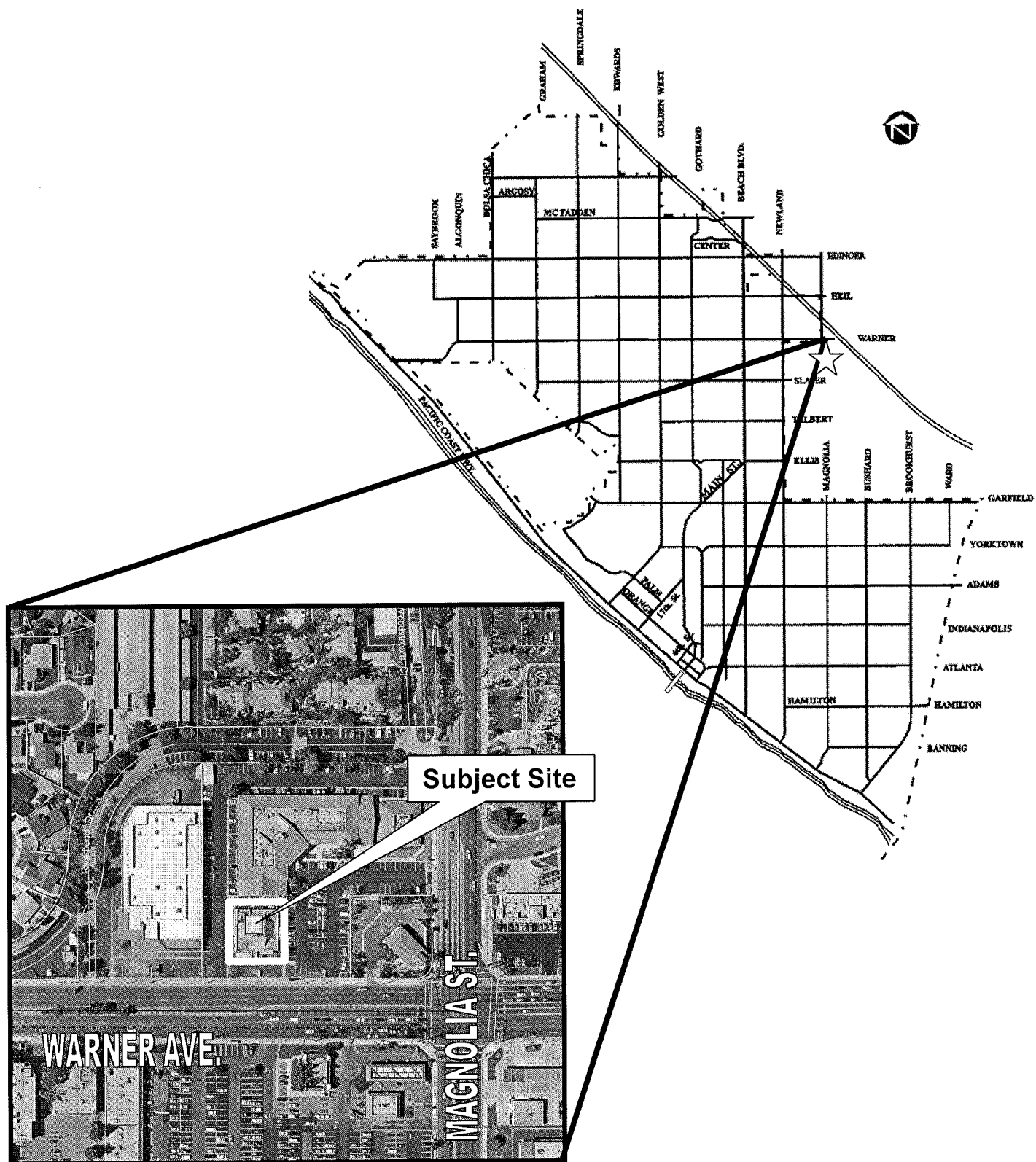
Motion to:

“Receive and file as adequate.”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. “Direct staff to schedule a public hearing to modify conditions of approval of Conditional Use Permit No. 11-001.”
- B. “Continue the six-month review of Conditional Use Permit No. 11-001 and direct staff accordingly.”



VICINITY MAP
CONDITIONAL USE PERMIT NO. 11-001
(TAP HOUSE RESTAURANT 6-MONTH REVIEW – 8901 WARNER AVENUE)

ANALYSIS

CUP No. 11-001 was approved on September 13, 2011 by the Planning Commission with a six month review from issuance of Certificate of Occupancy. The purpose of the review is to verify compliance with the conditions of approval and applicable chapters of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and to consider scheduling a public hearing to modify the conditions of approval, if necessary. A Certificate of Occupancy for the Tap House Restaurant was issued on August 7, 2012. The review considered complaints, calls for service, and on-site inspections by the Police Department and the Code Enforcement Division. To date, no Code Enforcement complaints have been received. The Police Department received approximately three calls per month between September 9, 2012 and March 12, 2013 related to the Tap House Restaurant. Even though many of these calls listed the location; a more thorough review indicated that many of the calls were initiated by officers checking the location for compliance and not due to response. There have been several disturbances reported that have occurred in the parking lot immediately outside of the location. Some of these disturbances were reported the following day rather than at the alleged time of occurrence, which often makes it difficult for investigators to corroborate the details. While there is a sophisticated video surveillance system employed inside the establishment, there is no video in the parking areas.

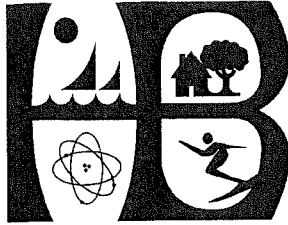
On January 20, 2013, several violations of the Entertainment Permit were observed and documented by police officers. These violations included: loud music, front doors kept ajar during entertainment, and a group of people being allowed to congregate outside the front doors. The establishment was cited for these violations in which the Police Department believes are likely attributable to inexperienced security staff. Police Department staff has met with the establishment owner to discuss their operation following the violations, and there have been no similar violations noted since. The owner has been very cooperative and also took initiative to meet with staff from the Fountain Valley Police Department to address any potential concerns they may have with his business since their jurisdiction is directly across the street. Follow up from that meeting indicates there are no concerns from the City of Fountain Valley regarding the operation of the Tap House Restaurant. The Police Department indicated that operating a sports bar/restaurant the size of the Tap House will have some impact on public safety services; however, they do not recommend modifying existing conditions of approval because these impacts were anticipated as part of CUP No. 11-001.

Based on the above information, staff has determined that the restaurant is in compliance with all conditions of approval and no modifications to the conditions are recommended. Staff recommends the Planning Commission receive and file the six-month review of CUP No. 11-001 as adequate.

ATTACHMENTS:

1. Planning Commission Notice of Action dated September 14, 2011– CUP No. 11-001
2. Police Department email dated March 14, 2013
3. Code Enforcement Division email dated March 14, 2013

SH:JJ:EE:



Huntington Beach Planning Commission

2000 MAIN STREET

CALIFORNIA 92648

NOTICE OF ACTION

September 14, 2011

Dwight Chornomud
8901 Warner Avenue
Huntington Beach, CA 92647

SUBJECT: CONDITIONAL USE PERMIT NO. 11-001 (TAPHOUSE RESTAURANT)

APPLICANT: Dwight Chornomud, 8901 Warner Avenue, Huntington Beach, CA 92647

PROPERTY

OWNER:

Huntington Partners, LLC, c/o Kathy Buchoz, 8907 Warner Avenue,
Huntington Beach, CA 92647

REQUEST: To permit: 1) the establishment, maintenance, and operation of an approximately 9,186 sq. ft. two-level indoor restaurant and 1,082 sq. ft. outdoor dining area; 2) alcohol sales; 3) live entertainment consisting of music and dancing; 4) approximately 564 sq. ft. outdoor storage area; and 5) a reduction in the number of required parking spaces to less than the number required pursuant to HBZSO Section 213.08 based on a parking survey and shared parking analysis and data.

LOCATION: 8901 Warner Avenue, 92647 (northwest corner at Magnolia Street – Bridgecreek Plaza)

DATE OF

ACTION:

September 13, 2011

On Tuesday, September 13, 2011, the Huntington Beach Planning Commission took action on your application, and your application was **conditionally approved**. Attached to this letter are the findings and conditions of approval.

Please be advised that the Planning Commission reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements prior to commencement of the project. It is recommended that you immediately pursue completion of the conditions of approval and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. The notice of appeal

shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of One Thousand, Five Hundred Eighty-Seven Dollars (\$1,587.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and Three Thousand, Forty Five Dollars (\$3,045.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is **September 23, 2011, at 5:00 PM.**

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, or at an alternative time specified as a condition of approval, unless actual construction has started.

"Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020."

If you have any questions, please contact Ethan Edwards, the project planner, at ethan.edwards@surfcity-hb.org or (714) 536-5561 or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,

Scott Hess, AICP, Secretary
Planning Commission

By:



Herb Fauland, Planning Manager

SH:HF:EE:kdc

Attachment: Finding and Conditions of Approval – CUP No. 11-001

c: Honorable Mayor and City Council
Chair and Planning Commission
Fred A. Wilson, City Manager
Scott Hess, Director of Planning and Building
Bill Reardon, Division Chief/Fire Marshal
Mike Vigliotta, Deputy City Attorney III
Debbie DeBow, Senior Civil Engineer
Mark Camahan, Inspection Manager
Ethan Edwards, Associate Planner
Property Owner
Project File

ATTACHMENT NO. 1.2

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 2011-001

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1—*Existing Facilities*, because the project involves a minor modification to the operation of the existing development involving negligible expansion of an existing use.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 11-001:

1. Conditional Use Permit No. 11-001 to permit the establishment, maintenance, and operation of an approximately 9,186 sq. ft. two-level indoor restaurant and 1,082 sq. ft. outdoor dining area with alcohol sales; live entertainment consisting of music and dancing; approximately 564 sq. ft. outdoor storage area; and a reduction in required parking based on shared use located within an existing mixed-use center in the Commercial General zoning designation; will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed use is regulated by the provisions of Chapter 5.44 of the Huntington Beach Municipal Code and the required Entertainment Permit. The Entertainment Permit prohibits noise that is audible at a distance greater than 50 feet from the business. No residential property or other sensitive land uses exist within 50 feet of the restaurant. The outdoor storage will be screened and not be visible by public view. In addition, the subject property provides adequate parking to accommodate the proposed restaurant, as demonstrated by a shared parking analysis, prepared by a licensed traffic engineer, indicating sufficient parking for existing and proposed uses based on shared parking. The anticipated actual peak parking demand for the center is 186 occupied parking spaces on weekdays and 192 occupied parking spaces on weekends. This substantiates that there is sufficient parking onsite and shows surplus parking for the existing and proposed uses based upon the existing 229 parking spaces provided.
2. The proposed restaurant with alcohol, live entertainment with dancing, outdoor dining, outdoor storage, and reduced parking will be compatible with surrounding uses because the proposed use is located within an existing mixed-use center. The restaurant is surrounded by commercial, office, and restaurant uses and therefore will be consistent with the existing land use pattern and compatible to its surroundings. The use will be required to comply with conditions of approval pertaining to alcohol service, live entertainment, outdoor storage, and operation to assure that any potential impacts to the surrounding properties are minimized. Live entertainment will be located within the restaurant and is primarily intended to enhance the experience for patrons and will not negatively impact adjacent properties. Additionally, the use is subject to noise regulations to further ensure compatibility with surrounding properties; and off-site parking will be restricted through directional signage.
3. The proposed restaurant with alcohol, live entertainment with dancing, outdoor dining, outdoor storage, and reduced parking will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision

Ordinance (HBZSO) and any specific condition required for the proposed use in the district in which it will be located. The HBZSO allows alcohol service, live entertainment with dancing, outdoor dining, outdoor storage, and a reduction in parking, in the CG zone, with approval of a conditional use permit. There is no physical expansion that includes additional floor area to the existing building as part of this request and the use will comply with all building occupancy/exiting requirements.

4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of CG-F1 (Commercial General – 0.35 Max. Floor Area Ratio) on the subject property. In addition, it is consistent with the following policies, objective and goal of the General Plan:

A. Land Use Element

Policy LU 7.1.1 Accommodate existing uses and new development in accordance with the Land Use and Density Schedules.

Objective LU 7.1 Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding subregion, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic relief from urban development.

Policy 10.1.8 Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures prevent negative impacts on adjacent properties.

Goal LU 11 Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The proposed use will provide the reestablishment of a commercial use within the Commercial General designation that is consistent with the Land Use and Density Schedules and is compatible with the surrounding mix of uses. The proposed conditional use permit will provide for the cultural, entertainment and recreational needs of a successful restaurant business by allowing the establishment to provide a broad range of restaurant related activities and services in a safe manner for residents of the surrounding area.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 11-001:

1. The site plan, floor plan, and elevation plan received and dated August 25, 2011, shall be the conceptually approved design.
2. Prior to issuance of a grading permit a Precise Grading Plan shall be submitted to the Public Works Department that includes the following:
 - a. The existing westerly approach on Warner Avenue shall be removed and replaced with an ADA compliant driveway approach per Public Works Standard Plan No. 209 or 211. (PW)

- b. Damaged curb, gutter and sidewalk along the Warner Avenue frontage shall be removed and replaced per Public Works Standard Plan Nos. 202 and 207. (PW)
3. The use shall comply with the following:
- a. Hours of operation shall be limited to between 11:00 AM and 2:00 AM Monday through Friday, and between 9:00 AM and 2:00 AM Saturday and Sunday.
 - b. To ensure the location maintains a restaurant atmosphere, food service from the regular menu shall be available from the time the business opens to the public, until at least one hour prior to the scheduled closing time. (PD)
 - c. All areas where the sales, service, and consumption of alcoholic beverages will be permitted shall be sufficiently illuminated to permit the identification of patrons. (PD)
 - d. Prior to the sale of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by the ABC, shall be submitted to the Planning and Building Department for the file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.
 - e. Prior to commencing live entertainment activities, a copy of an approved Entertainment Permit, approved by the Police Department and issued by the Business License Department, shall be submitted to the Planning & Building Department.
 - f. All conditions of the Entertainment Permit shall be observed.
 - g. Only the uses described in the project narrative shall be permitted (see attached narrative).
 - h. The use conditions listed herein shall be clearly posted on the premises at all times.
4. The height of supplies and equipment stored within the outdoor storage area shall not exceed the height of the screening fence.
5. A directional sign shall be posted at the entrance of the southwesterly reciprocal access way that indicates "No Restaurant Parking."
6. A review of the use shall be conducted by the Planning Commission within six (6) months of the issuance of Certificate of Occupancy to verify compliance with all conditions of approval and applicable Chapters of the Huntington Beach Zoning and Subdivision Ordinance. At that time the Planning Commission may consider modifications to the conditions of approval.
7. The development services departments and divisions (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning and Building may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.

8. CUP No. 11-001 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning and Building Department a minimum 30 days prior to the expiration date.
9. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/index.cfm?fuseaction=guidelines>).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

Edwards, Ethan

From: Stuart, Bill
Sent: Thursday, March 14, 2013 8:28 AM
To: Edwards, Ethan
Subject: RE: Taphouse - 6 month review

Ethan,

The police department has received approximately 3 calls per month that appear to be directly related to the Tap House during the time period between 9/9/2012 and 3/12/2013. While there were a number of other calls listing the location, a review of them indicated they were likely not a result of calls for service attributable to the business or they were calls initiated by officers checking the location for compliance. There have been several disturbances reported to have occurred in the parking lot immediately outside of the location. Several of these were reported the following day rather than at the alleged time of occurrence which often makes it difficult for investigators to corroborate the details. While there is a sophisticated video surveillance system employed inside the establishment, there is no video in the parking areas.

On 1/20/2013, several violations of the Entertainment Permit were observed and documented by officers. These violations were; the music was too loud, the front doors were wide open during entertainment and there was a group of people being allowed to stand and talk outside the front door. The establishment was cited for those violations which the police department believes are likely attributable to inexperienced security staff. There have been no similar violations noted since.

Police department staff has met with the establishment owner to discuss their operation following the above described Entertainment Permit violations. The owner was very cooperative and took steps to also meet with staff from the Fountain Valley Police Department to address any potential concerns they may have with his business since their jurisdiction is directly across the street. Follow up from that meeting indicates there are no concerns from the city of Fountain Valley regarding the operation of the Tap House.

Understanding that operating a Sports Bar/Restaurant the size of the Tap House will have some impact on public safety services, the police department does not feel any changes to the current conditions are required.

William Stuart, Captain
Huntington Beach Police Department
714.374.5368

From: Edwards, Ethan
Sent: Tuesday, March 12, 2013 9:12 AM
To: Fuentes, Mike; Stuart, Bill
Subject: Taphouse - 6 month review

A review of the use is required by the Planning Commission per Condition of Approval No. 6 (attached), to verify compliance with conditions of approval and code requirements. This review is scheduled for March 26, 2013 before the Planning Commission.

Please respond to this email to verify compliance, and let me know if there has been any code enforcement or public safety violations since Taphouse was established. Feel free to call me if you would like to discuss.

Thank you.

Edwards, Ethan

From: Hedden, Rich
Sent: Thursday, March 14, 2013 7:26 AM
To: Edwards, Ethan
Cc: Fuentes, Mike; Massi, Rich
Subject: RE: Taphouse - 6 month review

Ethan,

There has been no Code Enforcement activity or complaints since the establishment was opened. Staff does not recommend modifying any approved conditions of approval.

Richard Hedden Code Enforcement Officer II
Office 714-374-1709
Cell 714-393-8647
rhedden@surfcity-hb.org

From: Edwards, Ethan
Sent: Wednesday, March 13, 2013 9:12 AM
To: Hedden, Rich
Subject: FW: Taphouse - 6 month review

Hi Rich,
Fuentes indicated that he forwarded this to you. Let me know if you can respond. Thx!

Ethan Edwards, AICP, Associate Planner
City of Huntington Beach

From: Edwards, Ethan
Sent: Tuesday, March 12, 2013 9:12 AM
To: Fuentes, Mike; Stuart, Bill
Subject: Taphouse - 6 month review

A review of the use is required by the Planning Commission per Condition of Approval No. 6 (attached), to verify compliance with conditions of approval and code requirements. This review is scheduled for March 26, 2013 before the Planning Commission.

Please respond to this email to verify compliance, and let me know if there has been any code enforcement or public safety violations since Taphouse was established. Feel free to call me if you would like to discuss.

Thank you.

Ethan Edwards, AICP, Associate Planner
City of Huntington Beach
Planning and Building Department
p. (714) 536-5561 f. (714) 374-1540
ethan.edwards@surfcity-hb.org
www.huntingtonbeachca.gov